

Senate File 2309 - Introduced

SENATE FILE 2309
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3146)

A BILL FOR

1 An Act relating to the service of mandatory minimum sentences
2 by juveniles.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 124.413, subsection 1, Code 2014, is
2 amended to read as follows:

3 1. A Except as provided in section 901.5, subsection 15,
4 a person sentenced pursuant to section 124.401, subsection 1,
5 paragraph "a", "b", "c", "e", or "f", shall not be eligible
6 for parole until the person has served a minimum period of
7 confinement of one-third of the maximum indeterminate sentence
8 prescribed by law.

9 Sec. 2. Section 901.5, Code 2014, is amended by adding the
10 following new subsection:

11 NEW SUBSECTION. 15. a. (1) *Juveniles.* For a defendant
12 under eighteen years of age at the time the offense was
13 committed, the court shall make an individualized determination
14 in each case to determine whether section 124.413, 902.7,
15 902.8, 902.8A, 902.11, or 902.12 applies to the defendant's
16 sentence.

17 (2) If the court makes an individualized determination,
18 after considering the factors in paragraph "c", that a
19 section enumerated in subparagraph (1) applies to the
20 defendant's sentence, the court shall state the reasons for the
21 determination on the record at sentencing, and sentence the
22 defendant as follows:

23 (a) To serve the minimum sentence prior to eligibility for
24 parole as provided in that section enumerated in subparagraph
25 (1).

26 (b) To serve only a portion of the minimum sentence prior to
27 eligibility for parole as specified by the court as provided in
28 that section enumerated in subparagraph (1).

29 (3) If the court makes an individualized determination,
30 after considering the factors in paragraph "c", that a
31 section enumerated in subparagraph (1) does not apply to the
32 defendant's sentence, the court shall state the reasons for the
33 determination on the record at the sentencing, and the sentence
34 shall be served as if that section enumerated in subparagraph
35 (1) does not apply to the defendant's sentence.

1 *b. (1) Juvenile Class "A" felons.* For a class "A" felony
2 defendant under eighteen years of age at the time the offense
3 was committed under section 902.1, subsection 2, the defendant
4 shall not be eligible for parole as provided in section
5 902.1, subsection 2, if the court makes an individualized
6 determination as to the defendant's sentence pursuant to this
7 section.

8 (2) If the court makes an individualized determination,
9 after considering the factors in paragraph "c", that the
10 defendant shall not be eligible for parole as provided in
11 section 902.1, subsection 2, the court shall state the reasons
12 for the determination on the record at sentencing, and sentence
13 the defendant as follows:

14 (a) To serve a term of confinement as specified by the court
15 prior to being eligible for parole.

16 (b) To serve a life sentence pursuant to section 902.1,
17 subsection 1.

18 *c. Factors.* In making an individualized determination, the
19 court shall consider the following factors:

20 (1) The age of the defendant, the level of maturity and
21 impulsiveness, and whether the defendant appreciated the risks
22 and consequences of the defendant's actions.

23 (2) The defendant's family history and current home
24 environment.

25 (3) The circumstances surrounding the offense, including
26 the extent of the defendant's involvement.

27 (4) The amount of family or peer pressure involved in the
28 offense.

29 (5) The defendant's ability to manage relations with
30 law enforcement, prosecutors, or defense counsel, or other
31 manifestations of the defendant's incapacity.

32 (6) The potential for rehabilitation.

33 (7) The defendant's remorse.

34 (8) The defendant's acceptance of responsibility for the
35 defendant's actions.

1 (9) A victim impact statement.

2 (10) Any other relevant information as the court
3 determines.

4 Sec. 3. Section 902.1, subsection 2, Code 2014, is amended
5 to read as follows:

6 2. a. Notwithstanding subsection 1, a person convicted of
7 a class "A" felony, and who was under the age of eighteen at
8 the time the offense was committed shall be eligible for parole
9 ~~after serving a minimum term of confinement of twenty-five~~
10 years, unless the court makes an individualized determination
11 as to the person's sentence pursuant to section 901.5,
12 subsection 15.

13 b. If a person is paroled pursuant to this subsection the
14 person shall be subject to the same set of procedures set out
15 in chapters 901B, 905, 906, and chapter 908, and rules adopted
16 under those chapters for persons on parole.

17 ~~c. A person convicted of murder in the first degree in~~
18 ~~violation of section 707.2 shall not be eligible for parole~~
19 ~~pursuant to this subsection.~~

20 Sec. 4. Section 902.7, Code 2014, is amended to read as
21 follows:

22 **902.7 Minimum sentence — use of a dangerous weapon.**

23 At Except as provided in section 901.5, subsection 15, the
24 trial of a person charged with participating in a forcible
25 felony, if the trier of fact finds beyond a reasonable doubt
26 that the person is guilty of a forcible felony and that
27 the person represented that the person was in the immediate
28 possession and control of a dangerous weapon, displayed a
29 dangerous weapon in a threatening manner, or was armed with a
30 dangerous weapon while participating in the forcible felony
31 the convicted person shall serve a minimum of five years of
32 the sentence imposed by law. A person sentenced pursuant to
33 this section shall not be eligible for parole until the person
34 has served the minimum sentence of confinement imposed by this
35 section.

1 Sec. 5. Section 902.8, Code 2014, is amended to read as
2 follows:

3 **902.8 Minimum sentence — habitual offender.**

4 An habitual offender is any person convicted of a class "C"
5 or a class "D" felony, who has twice before been convicted
6 of any felony in a court of this or any other state, or of
7 the United States. An offense is a felony if, by the law
8 under which the person is convicted, it is so classified at
9 the time of the person's conviction. A Except as provided in
10 section 901.5, subsection 15, a person sentenced as an habitual
11 offender shall not be eligible for parole until the person has
12 served the minimum sentence of confinement of three years.

13 Sec. 6. Section 902.8A, Code 2014, is amended to read as
14 follows:

15 **902.8A Minimum sentence for conspiring to manufacture, or**
16 **delivery of, amphetamine or methamphetamine to a minor.**

17 A Except as provided in section 901.5, subsection 15, a
18 person who has been convicted for a first violation under
19 section 124.401D shall not be eligible for parole until the
20 person has served a minimum term of confinement of ten years.

21 Sec. 7. Section 902.11, unnumbered paragraph 1, Code 2014,
22 is amended to read as follows:

23 A person serving a sentence for conviction of a felony, who
24 has a criminal record of one or more prior convictions for a
25 forcible felony or a crime of a similar gravity in this or any
26 other state, shall be denied parole or work release unless
27 the person has served at least one-half of the maximum term
28 of the defendant's sentence. However, the mandatory sentence
29 provided for by this section does not apply if ~~either~~ any of
30 the following apply:

31 Sec. 8. Section 902.11, Code 2014, is amended by adding the
32 following new subsection:

33 NEW SUBSECTION. 3. The court has made an individualized
34 determination pursuant to section 901.5, subsection 15, that
35 this section does not apply to the person's sentence.

1 Sec. 9. Section 902.12, unnumbered paragraph 1, Code 2014,
2 is amended to read as follows:

3 A Except as provided in section 901.5, subsection 15, a
4 person serving a sentence for conviction of the following
5 felonies, including a person serving a sentence for conviction
6 of the following felonies prior to July 1, 2003, shall be
7 denied parole or work release unless the person has served
8 at least seven-tenths of the maximum term of the person's
9 sentence:

10	EXPLANATION
----	-------------

11 The inclusion of this explanation does not constitute agreement with
12 the explanation's substance by the members of the general assembly.

13 This bill relates to the imposition of mandatory minimum
14 sentences for certain criminal offenses committed by juveniles.

15 The bill specifies that the following mandatory minimum
16 sentences are not applicable to the criminal sentencing and
17 subsequent incarceration if the person was under 18 years of
18 age at the time the underlying criminal offense was committed,
19 unless the court makes an individualized determination
20 that the mandatory minimum is applicable: Code sections
21 124.413 (mandatory minimum for drug offenses), 902.7 (use
22 of a dangerous weapon), 902.8 (habitual offender), 902.8A
23 (minimum sentence for conspiring to manufacture, or delivery
24 of, amphetamine or methamphetamine to a minor), 902.11 (prior
25 forcible felon), and 902.12 (70 percent sentences).

26 In making an individualized determination, the court
27 shall consider the following: the age of the person and
28 the level of maturity, the defendant's family history and
29 current home environment, the circumstances surrounding the
30 offense including the person's involvement in the crime, the
31 amount of family or peer pressure involved, the defendant's
32 ability to manage relations with the prosecution and defense,
33 the potential for rehabilitation, the person's remorse,
34 the person's acceptance of responsibility, a victim impact
35 statement, and any other relevant information.

1 Under the bill, if the court makes an individualized
2 determination that the mandatory minimum applies to the
3 defendant's sentence, the court shall sentence the person in
4 the following manner with respect to the mandatory minimum: to
5 serve the mandatory minimum sentence as provided by law, or to
6 serve a portion of the mandatory minimum sentence as specified
7 by the court prior to eligibility for parole.

8 The bill also specifies in Code section 902.1 that a person
9 who commits a class "A" felony including murder in the first
10 degree and who was under the age of 18 at the time the offense
11 was committed shall be eligible for parole unless the court
12 makes an individualized determination that the person should
13 not be eligible for parole. Current law specifies if the
14 person commits a class "A" felony other than murder in the
15 first degree the person shall serve a mandatory minimum of 25
16 years in prison prior to being eligible for parole. Current
17 law also specifies that if a person commits murder in the first
18 degree and is under 18 years of age at the time the offense was
19 committed the person is not eligible for parole. However, the
20 United States Supreme Court in a recent ruling in Miller v.
21 Alabama prohibited life sentences without the possibility of
22 parole for a juvenile who commits murder.

23 In making the individualized determination the court shall
24 consider the same aforementioned factors for the applicability
25 of mandatory minimum sentences.

26 Under the bill, if the court makes an individualized
27 determination that the person shall not be eligible for parole
28 as specified by Code section 902.1(2) in the bill, the court
29 shall sentence the person in the following manner with respect
30 to the class "A" felony: to serve a term of confinement as
31 specified by the court prior to being eligible for parole, or
32 to serve a life sentence without the possibility of parole
33 pursuant to Code section 902.1(1).